IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

OP.No. 3366 of 2000(A)

PETITIONER:

JOSE SEBASTIAN, CHIRAMATTEL, WAREHOUSE ROAD,
THODUPUZHA EAST P.O., THODUPUZHA

BY ADV. SRI.K.C.JOSEPH

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVT., REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE TAHSILDAR, TALUK OFFICE, THODUPUZHA.

3. THE VILLAGE OFFICER, THODUPUZHA.

4. STATE BANK OF INDIA, THODUPUZHA BRANCH, THODUPUZHA.

R1 TO R3 BY GOVERNMENT PLEADER SMT. SMITHA SUKUMARAN
R4 BY SC SRI.K.K.CHANDRAN PILLAI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 22/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 5566 OF 2000 IN OP 3366 OF 2000

DISMISSED

22.11.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE RECEIPT NO. 85 DATED 19.2.1998 FROM THE VILLAGE OFFICE, THODUPUZHA.

EXT.P2 TRUE COPY OF THE RECEIPT NO. 10 DATED 9.3.1998

EXT.P3 TRUE COPY OF THE RECEIPT NO. 42 DATED 20.4.1998 IN THE VILLAGE OFFICE, THODUPUZHA.

EXT.P4 TRUE COPY OF THE RECEIPT NO. 23 DATED 17.10.1998

EXT.P5 TRUE COPY OF THE PETITION DATED 2.12.1998 TO THE FIRST RESPONDENT-GOVT.

EXT.P6 TRUE COPY OF THE STAY ORDER OF THE FIRST RESPONDENT GOVERNMENT BEARING NO. 83699/S5/98/REV. DATED 3.12.1998

EXT.P7 TRUE COPY OF THE PETITION DATED 11.1.1999 SUBMITTED FOR THE THIRD RESPONDENT.

EXT.P8 TRUE COPY OF THE PETITION DATED 20.2.1999 SUBMITTED TO THE THIRD RESPONDENT.

EXT.P9 TRUE COPY OF THE REPORT NO. RR. 174/98 DATED NIL OF THE THIRD RESPONDENT.

EXT.P10 TRUE COPY OF THE REPRESENTATION DATED 25.3.1999 SUBMITTED BY THE PETITIONER TO THE FIRST RESPONDENT.

EXT.P11 TRUE COPY OF THE NOTICE OF SALE OF IMMOVABLE PROPERTY BEARING NO. B9-13594/96 DATED NIL ISSUED BY THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

O.P. NO. 3366 OF 2000

Dated this the 22nd day of November, 2007

JUDGMENT

Petitioner is challenging recovery proceedings initiated for recovery of arrears of loan taken from the fourth respondent. According to the petitioner, loan is agricultural loan and petitioner has made part payment of Rs. 5,000/- under interim orders of this Court on 1.2.2000. It is not known whether the earlier payment of Rs. 10425/- is already credited. Even though Government granted instalment facility vide Ext.P6 petitioner's case is that Village Officer did not accept payment under the same. The Village Officer obviously has no right to overrule Government's orders. In any case, since O.P. is pending for the last seven years and Government has given power to the Agricultural Debt Relief Commission to grant incentives to farmers, O.P. is disposed of leaving freedom to the petitioner to move the Commission for incentives. If the petitioner does not want to approach the Commission, and since Government granted instalment facility, I feel, petitioner can be granted some incentives and OTS benefit, as debt

is only an agricultural loan. In the circumstances, petitioner is given another option to pay the balance arrears with simple interest at agreed rate without compound interest and without payment of any default and penal interest, provided petitioner pays the said amount in four equal monthly instalments, first of which will be paid on or before 25th December, 2007 and the balance on or before 25th of three succeeding months. Revenue recovery proceedings will be kept in abeyance for payment as above. There will be further direction to the Bank to give a statement of liability to the petitioner as above, if the petitioner offers to settle it under the second alternative stated above. If the petitioner approaches the Commission, recovery will be under orders of the Commission.

(C.N. RAMACHANDRAN NAIR)
Judge